

Appeal Decisions

Site visit made on 31 January 2017

by J Dowling BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 February 2017

Appeal Ref: APP/E2205/W/16/3159652 (Appeal A)

Land north of 1 Westwell Court, Tenterden, Kent TN30 6TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Foregate Developments Ltd against the decision of Ashford Borough Council.
 - The application Ref 16/00295/AS, dated 25 February 2016, was refused by notice dated 21 April 2016.
 - The development proposed is erection of garage block with two bed flat above.
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Appeal Ref: APP/E2205/W/16/3159656 (Appeal B)

Land north of 1 Westwell Court, Tenterden, Kent TN30 6TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Foregate Properties Ltd against the decision of Ashford Borough Council.
 - The application Ref 16/01058/AS, dated 12 July 2016, was refused by notice dated 5 September 2016.
 - The development proposed is erection of garage block with two bed flat above (revision to refused application 16/00295/AS).
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Decision

Appeal ref: APP/E2205/W/16/3159652 –erection of garage block with two bed flat above (Appeal A)

1. This appeal is dismissed.

Appeal ref: APP/E2205/W/16/3159656 - erection of garage block with two bed flat above (revision to refused application 16/00295/AS) (Appeal B)

2. This appeal is dismissed.

Procedural Matters

3. There are variations in the address details provided on the original planning application forms, appeal forms and decision notices. I consider that the address used by the Council in their decision notices accurately identifies the site. I have therefore amended the banner heading accordingly and for completeness included the postcode.
 4. The description of development for Appeal B provided on the planning application form is given as 'replacement application for 16/00295/AS'. This was amended by the Council during their consideration of the application to 'Erection of garage block with two bed flat above (revision to refused
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application 16/00295/AS)'. I consider that the description of development used by the Council is more precise and I have amended the banner heading accordingly.

5. From the information submitted for the appeal there appears to be some confusion between the parties as to whether or not the appeal site is within the Tenterden Conservation Area. Having looked at the Conservation Area plan provided by the Council¹ I consider that the site does not fall within the Conservation Area and I have therefore considered the appeal on this basis.
6. The appellant has submitted two amended plans with the appeal which they have requested should replace those submitted with the original applications.
 - Plan 1075/01B to replace 1075/01 for both Appeal A and Appeal B
 - Plan 1075/02C to replace 1075/02A for Appeal A

Plan 1075/01 is entitled existing site plan. Both Plan 1075/01 and 01B show the existing parking courtyard but also show changes to the parking forecourt layout that were granted planning permission as part of a proposed development at No 1². Plan 01B shows the same layout with an additional three cars parked on the forecourt.

On Plan 1075/02C two of the proposed garages have been converted into car ports; the forecourt to the front of the proposed new unit has increased in depth and width and shows a car parked on it and the existing parking forecourt layout has been extended and is annotated to include two visitor spaces.

Although I consider that the changes introduced by plan 1075/01B are minor when I visited the site I observed that the changes to the forecourt layout allowed under the planning permission for No 1 had not been implemented and therefore the layout as currently exists on site differs from what is shown as existing on both the application plan and the proposed replacement plan. As a consequence in relation to the existing site layout I have based my consideration of these appeals on what I observed on site.

With regards to Plan 1075/02C taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* (1980) I consider that the proposed changes would result in a materially different scheme and as a consequence I believe that the Council and the other interested parties in this appeal would be prejudiced by my consideration of this plan. As a result I have considered appeal A on the basis of plan 1075/02A.

Main Issues

7. The main issues for both Appeal A and Appeal B are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect on highway safety.

¹ ABC Intranet Mapping – Tenterden, created 06-Sep-2007

² LPA reference: 15/00337/AS

Reasons

Character and appearance

8. Westwell Court is a small in-fill development located on the edge of Tenterden. It consists a mix of two storey detached and terraced houses. The houses are set back from the street either by sizeable front gardens in the case of the detached houses or an area of communal open green space and a parking forecourt for the terraced units. The appeal site consists of a small grassed area that forms part of this communal open space which provides the landscaped setting for Nos 1-10.
9. The proposal is for the erection of a two storey detached mews type building which has, through the use of materials and architectural detailing, been designed to reflect the design of the other properties within Westwell Court.
10. However, the proposed building would infill the area between a single storey garage block and the pavement. As a result the proposed side elevation would be in close proximity to the back edge of the pavement and unlike other properties within Westwell Court there would be very limited space and landscaping around the building. I note that the appellant considers that the proposal would go some way towards completing the third arm of built development and symmetry of the courtyard and that the principle of loss of open space has been accepted by the planning permission for No 1. However, unlike the scheme at No 1 which would result in an extension of the established building lines by expanding the existing terrace and building on an area of existing private walled garden the proposal would be for a stand-alone building that would sit forward of the rear building line of the adjoining garages on what is currently an area of open space.
11. As a consequence due to the location, bulk and mass the proposal would be visually prominent and appear as an incongruous feature out of character with the existing pattern of development and the character and appearance of the streetscene.
12. Furthermore, whilst I note that the site is in private ownership, the area of open space where the site is located forms part of the original design and layout for Westwell Court as a whole and contributes positively to the setting of Nos 1-10. The loss of this open space would therefore adversely affect the character and appearance of Nos 1-10 and Westwell Court as a whole.
13. In conclusion the proposal would therefore be contrary to saved policies EN12 and GP10 of the Ashford Borough Local Plan (2000)(the Local Plan); policies CS1 and CS9 of the Ashford Borough Council Core Strategy (2008) (the Core Strategy) and policy TRS1 of the Ashford Borough Council Tenterden and Rural Sites Development Plan Document(2010) (the DPD) which require development to be of a high quality design which respects the character and setting of the area and that private areas of open space should remain free from development where they make an important contribution to the setting of a group of buildings. These policies are in accordance with the National Planning Policy Framework (the Framework) which, amongst other things, advocates that development of poor design which fails to take the opportunities available for improving the character and quality of an area should be refused.

14. With regards to Appeal B the Council in their reason for refusal made reference to policies HOU3 and HOU4 of the emerging Ashford Local Plan. However, this plan is in the early stages of preparation and whilst it has been out for public consultation it has not been the subject of any robust testing. Therefore having regard to the advice provided by the Framework³ in coming to my conclusion I have attached no weight to these policies.

Highway Safety

15. The proposal is for a two bedroom flat which according to the Planning Officers report would require the provision of two parking spaces. Both schemes would deliver the provision of three integral parking spaces and hard surfaced parking area. In addition the appellant advocates that there is capacity within the road for additional on-street parking.
16. The plans indicate that two of the spaces would be for the proposed new unit adjacent to No 1 so that only one of the three proposed integral spaces would be provided for the new unit. As a result the Council consider that there would be a shortfall in provision which would result in vehicles parking on the forecourt which is not of a width to accommodate them and as a consequence would give rise to concerns over highway safety.
17. Furthermore, there are concerns regarding the accessibility and safety of the spaces due to the proximity to the junction with Westwell Court and the limited space available for manoeuvring.
18. However, the existing main parking forecourt, access and the land adjacent to No 1 are not included within the appeal site boundary. Therefore it is unclear how the proposed changes to the forecourt and provision of parking spaces for another scheme could be delivered through the appeal scheme. Had I been minded to allow the appeal I would have sought the views of the parties with regards to this matter prior to issuing a decision. However, as I intend to dismiss the appeal, because of the harm to the character and appearance of the area I have identified above, I have not pursued this matter further with the parties.

Other matters

19. The Framework aims to boost significantly the supply of housing. The Council does not have an up to date five year housing land supply. As such the appellant advocates that the development plan policies to be out of date and that in accordance with the Framework⁴ the development should be approved.
20. However, even where a Council does not have an up to date supply of housing the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
21. Whilst I agree with the appellant that the site would be in a sustainable location and would boost the supply of housing I consider that the benefit would be very modest and in any event is significantly and demonstrably outweighed by the harm to the character and appearance of the local area I have identified above.

³ Paragraph 216 of the National Planning Policy Framework (2012)

⁴ Paragraph 14 of the National Planning Policy framework (2012)

Conclusion

22. For the above reasons, and having regard to all other matters raised, this appeal should be dismissed.

Jo Dowling

INSPECTOR